

STATE OF TENNESSEE

Office of the Attorney General



RECEIVED

2003 OCT 16 PM 4:05

T.R.A. DOCKET ROOM

**ANDY D. BENNETT**  
CHIEF DEPUTY ATTORNEY GENERAL

**LUCY HONEY HAYNES**  
ASSOCIATE CHIEF DEPUTY  
ATTORNEY GENERAL

**PAUL G. SUMMERS**  
ATTORNEY GENERAL AND REPORTER

MAILING ADDRESS

P.O. BOX 20207  
NASHVILLE, TN 37202

**MICHAEL E. MOORE**  
SOLICITOR GENERAL

CORDELL HULL AND JOHN SEVIER  
STATE OFFICE BUILDINGS

TELEPHONE 615-741-3491  
FACSIMILE 615-741-2009

Reply to:  
**Consumer Advocate and Protection Division**  
Post Office Box 20207  
Nashville, TN 37202

October 16, 2003

Honorable Deborah Taylor Tate  
Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

IN RE: MATTER PENDING AT THE TRA TARIFF DOCKET NO. 03-00554:  
BELLSOUTH TARIFF TO ESTABLISH THE WIRELESS ANSWERS PROMOTION

Dear Chairman Tate:

Enclosed is an original and thirteen copies of the Consumer Advocate and Protection Division's Petition to Intervene. Kindly file same in this docket. Copies are being sent to all parties of record. If you have any questions, kindly contact me at (615) 741-8733. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Vance L. Broemel".

Vance L. Broemel  
Assistant Attorney General

cc: All Parties of Record

#66649

**IN THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

<b>IN RE:</b>	)	
	)	
<b>BELLSOUTH WIRELESS ANSWERS</b>	)	<b>DOCKET NO. 03-00554</b>
<b>BUNDLE</b>	)	
	)	

---

**PETITION TO INTERVENE**

---

Comes Paul G. Summers, the Attorney General for the State of Tennessee, through the Consumer Advocate and Protection Division of the Office of the Attorney General (hereinafter "Consumer Advocate"), pursuant to Tenn. Code Ann. § 65-4-118(c)(2)(A), and petitions to intervene in this docket on behalf of the public interest because consumers may be adversely affected by the proposed tariff because it does not clearly state that it is subject to the resale requirements of the federal Telecommunications Act of 1996 and does not set forth any valid reasons for any such exemption. For cause, the Petitioner would show as follows:

1. The Consumer Advocate is authorized by Tenn. Code Ann. § 65-4-118 (c)(2)(A) to initiate a contested case, and participate or intervene in proceedings to represent the interests of Tennessee consumers in accordance with the Uniform Administrative Procedures Act ("UAPA").
2. BellSouth Telecommunications, Inc. ("BellSouth") is an incumbent Local Exchange Company operating in the State of Tennessee, regulated by the Tennessee Regulatory Authority ("TRA"), and offering telecommunications services to Tennessee consumers.
3. The present docket, Docket No. 03-00554, involves a tariff for a service known as BellSouth Wireless Answers Bundle. As the name indicates, this tariff offers a "bundle" of

services which includes, among others, such services as: BellSouth Complete Choice Service; BellSouth Long Distance; and Cingular Wireless. From a reading of the tariff, it appears that some of these “bundled” services are regulated by the TRA, and some are unregulated.

4. The tariff filed by BellSouth does not explicitly provide that it is subject to resale. This is a matter of concern for the Consumer Advocate because in a previous “bundled” tariff offering, BellSouth’s Promotion to Introduce BellSouth Integrated Solutions Program, TRA Docket No. 03-00512, BellSouth has taken the position that neither the tariff nor any of the “bundle” of services offered in the tariff are subject to resale. Accordingly, the Consumer Advocate is concerned about letting the present tariff, Tariff to Establish the Wireless Answers Promotion, go into effect without a clear understanding that it is subject to resale.

5. The federal Telecommunications Act of 1996 “requires incumbent LECs [such as BellSouth] to offer at ‘wholesale rates’ any telecommunications services that the carrier provides at retail to subscribers who are not telecommunications carriers.” FCC Order 96-325 at Paragraph 878. See also 47 U.S.C. § 251(c)(4) (2001). BellSouth has set forth no statutory authority for exempting the subject service from the Act, nor has BellSouth offered any authority for the position that “non-regulated” services are not subject to resale.

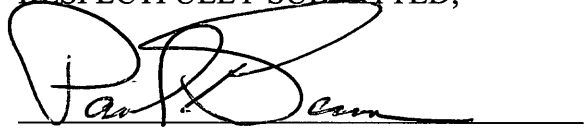
6. Furthermore, BellSouth has not offered any state or federal authority for the position that “bundling” a product which is subject to resale with a product which is not subject to resale exempts the “bundled” product.

7. Accordingly, the TRA should not approve the proposed tariff.

8. Only by intervening and participating in this proceeding can the Consumer Advocate work to protect the public interest.

Wherefore, the Petitioner prays the Authority to grant its Petition to Intervene and convene a contested case, and grant such other relief as may be appropriate.

RESPECTFULLY SUBMITTED,



PAUL G. SUMMERS, B.P.R. #6285  
Attorney General  
State of Tennessee



VANCE L. BROEMEL, B.P.R. #01142  
Assistant Attorney General  
Office of the Attorney General  
Consumer Advocate and Protection Division  
P.O. Box 20207  
Nashville, Tennessee 37202  
(615) 741-8733

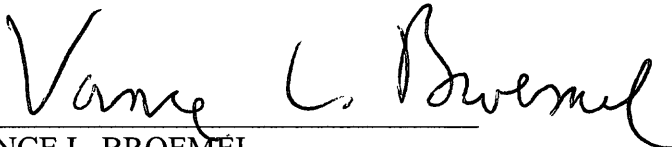
Dated: October 16<sup>th</sup>, 2003

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served via hand delivery or facsimile on October <sup>16</sup>~~16~~ 2003

Guy Hicks, Esq.  
BellSouth Telecommunications, Inc.  
333 Commerce Street  
Suite 2101  
Nashville, Tennessee 37201-3300

Richard Collier, Esq.  
General Counsel  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

  
\_\_\_\_\_  
VANCE L. BROEMEL  
Assistant Attorney General

69814